

**UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

UNITED STATES OF AMERICA

v.

KENNETH SIMMONS

07-3003
(00cr157-12)

**MOTION OF APPELLANT SIMMONS TO LATE FILE INTERIM
TRANSCRIPT STATUS REPORT OF OCTOBER 4, 2010**

Counsel for Appellant Kenneth Simmons hereby moves the Court for permission to late file the interim transcript status report that has been lodged with the Clerk as of October 4, 2010. As grounds for this request, movant would ask the Court to consider the following:

1. Appellant's interim transcript status report was due to be filed on September 30, 2010.

2. Counsel was required to be in another jurisdiction for the period September 29-October 2, 2010. Although counsel made an attempt to remote file the interim transcript status report on the due date, the computer with which he attempted to

make the filing did not have the acceptable version of the Java software required by ECF.

3. An interim transcript status report, dated October 4, 2010, has been prepared and lodged with the ECF system.

4. The Appellate Division of the United States Attorney's Office has been contacted and has authorized counsel to inform the Court that it has no opposition to a late filed transcript status report.

Respectfully submitted,

/s/

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Certificate of Service

The undersigned, Dennis M. Hart, certifies that a true and correct copy of the foregoing interim transcript status notice was served by mail, with first class postage prepaid upon the following this 4th day of October, 2010:

Office of the United States Attorney
Appellate Section
555 Fourth Street N.W.
Washington, D.C. 20530

/s/
Dennis M. Hart